

Remarks/Arguments

Claims 1, 3-14 and 16-22 are pending in this application, and are rejected in the Office Action dated June 11, 2009. Claims 1 and 19 are amended herein to more particularly point out and distinctly claim the subject matter Applicants regard as the invention.

Re: Claims 1, 3-9, 11, 13, 14 and 16-22

Claims 1, 3-9, 11, 13, 14 and 16-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,940,074 issued to Britt, Jr. et al. (hereinafter, "Britt, Jr.") in view of U.S. Patent No. 7,251,725 issued to Loison et al. (hereinafter, "Loison"). Applicants respectfully traverse this rejection for at least the following reasons.

It is first noted that independent claim 1, as amended herein, recites:

"Network equipment for providing a connection to a local network, said local network comprising at least one software server, said network equipment comprising:

a memory for storing software;

means for providing a connection to said local network; and

means for monitoring a start up of the network equipment to detect a software start up failure, and for generating a software start up failure signal in response to detecting said software start up failure, said software start up failure signal being broadcast on the local network for reception by said at least one software server, said software start up failure signal comprising information specifying at least one of:

(i) a nature of said software start up failure, an identification of replacement software to be downloaded, and an identification of a version of the software currently stored in the memory;

(ii) said nature of said software start up failure, and said identification of replacement software to be downloaded; and

(iii) said nature of said software start up failure, and said identification of said version of the software currently stored in the memory." (emphasis added)

As indicated above, amended independent claim 1 defines network equipment comprising a memory for storing software, means for providing a connection to a local network, and means for monitoring a start up of the network equipment to detect a

software start up failure. In response to detecting the software start up failure, the monitoring means generates a software start up failure signal which is broadcast on the local network for reception by at least one software server. The software start up failure signal comprises information specifying at least one of: (i) a nature of said software start up failure, an identification of replacement software to be downloaded, and an identification of a version of the software currently stored in the memory; (ii) said nature of said software start up failure, and said identification of replacement software to be downloaded; and (iii) said nature of said software start up failure, and said identification of said version of the software currently stored in the memory. Independent claim 19 is amended herein to recite subject matter similar to independent claim 1. Independent claim 16 is not amended herein, but also defines subject matter similar to independent claims 1 and 19.

Neither Britt, Jr. nor Loison, whether taken individually or in combination, discloses or suggests each and every element of independent claims 1, 16 and 19. On page 3 of the Office Action dated June 11, 2009, the Examiner alleges that the “means ... for generating a software start up failure signal in response to detecting said software start up failure”, as recited by independent claim 1, is disclosed in column 8, lines 14-32 of Britt, Jr., where the initiation of an error download routine in Britt, Jr. allegedly corresponds to the claimed “software start up failure signal”. This error download routine of Britt, Jr. is performed at step 604 of FIG. 6, and is further described in column 9, lines 35-57 and FIG. 9 thereof.

According to Britt, Jr., the aforementioned error download routine starts with client system 1 connecting to server 5 (see FIG. 1) using a default toll-free number. Once connected, client system 1 obtains a local connection script from server 5 (see step 901 of FIG. 9). Here, Applicants note that the local connection script does not comprise any information specifying “a nature of said software start up failure” as recited by independent claims 1, 16 and 19.

Later on page 3 of the Office Action dated June 11, 2009, the Examiner alleges that the “indication of which file, default or upgrade, to download is an identification of the nature of the startup failure” and is disclosed in column 9, lines 50-51 (i.e. step 904 of FIG. 9) of Britt, Jr. In response, Applicants note that the request made at step 904 of Britt, Jr. does not correspond to the initiation of the error download routine, which is alleged by the Examiner to correspond to the claimed “software start up failure signal” (see above). That is, the request made at step 904 of Britt, Jr. is sent after the error download routine has started (i.e., after the client system has been connected to the default server). Accordingly, the Examiner is inconsistent in his allegations of what constitutes the claimed “software start up failure signal”.

Finally, in the description of step 904 of Britt, Jr., it is indicated that the request comprises an indication of the replacement software to be downloaded and the software version. However, this request does not include any information specifying “a nature of said software start up failure” as recited by independent claims 1, 16 and 19. Accordingly, Applicants respectfully submit that Britt, Jr. does not disclose or suggest, *inter alia*, the claimed “software start up failure signal” that comprises information specifying “a nature of said software start up failure” as recited by independent claims 1, 16 and 19.

On page 4 of the Office Action dated June 11, 2009, the Examiner admits that “Britt [Jr.] fails to disclose the network communication being on a local network with the start up failure signal being only sent on a local network” (emphasis added). To remedy this admitted deficiency of Britt, Jr., the Examiner relies on Loison, and specifically cites column 1, lines 17-20 and 31-38 thereof alleging that the DHCP DISCOVER signal referred to in column 1, lines 31-38 of Loison corresponds to the claimed “software start up failure signal”. In response, Applicants note that the DHCP DISCOVER signal of Loison is a well-known DHCP message that is adapted to reach a DHCP server, and is not a “software start up failure signal” as claimed. Accordingly, Applicants respectfully submit that Loison is unable to remedy the admitted deficiency of Britt, Jr.

Notwithstanding the aforementioned deficiencies of the proposed combination of Britt, Jr. and Loison, Applicants have amended independent claims 1 and 19 to even further distinguish the claimed invention over the prior art and thereby advance the prosecution. In particular, and as indicated above, independent claims 1 and 19 (as amended herein) and independent claim 16 (as previously presented) states that the “software start up failure signal” is broadcast on the local network. This conforms to Applicants’ description, where the “software start up failure signal” is included in a BOOTP request. Although BOOTP is not described in detail in the application itself, BOOTP is a well-known standard, and a BOOTP request is a broadcast message. Here, Applicants note that Britt, Jr. does not disclose broadcasting a request signal between the client system and the server. Rather, in Britt, Jr., the requests are sent in a point-to-point manner between the client system and the server.

Therefore, for at least the foregoing reasons, Applicants submit that independent claims 1, 16 and 19 (and their respective dependent claims) are non-obvious over the proposed combination of Britt, Jr. and Loison, and withdrawal of the rejection is respectfully requested.

Re: Claims 10 and 12

Claims 10 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Britt, Jr. in view of Loison, and further in view of U.S. Patent Publication No. 2002/0095619 by Marsh (hereinafter, “Marsh”). Applicants respectfully traverse this rejection since Marsh is unable to remedy the deficiencies of Britt, Jr. and Loison pointed out above in conjunction with independent claim 1, from which claims 10 and 12 depend. Accordingly, claims 10 and 12 are deemed non-obvious over the proposed combination of Britt, Jr., Loison and Marsh, and withdrawal of the rejection is respectfully requested.

Conclusion

In view of the foregoing remarks/arguments and accompanying amendments, the Applicants believe this application stands in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled. No fee is believed to be due from this response. However, if a fee is due, please charge the fee to Deposit Account 07-0832.

Respectfully submitted,

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